

Assembly Bill No. 2142

CHAPTER 445

An act to amend Sections 22850, 22864, and 22911 of the Government Code, relating to public employees' benefits, and making an appropriation therefor.

[Approved by Governor September 22, 2012. Filed with
Secretary of State September 22, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2142, Furutani. Public employees' health benefits: premiums.

The Public Employees' Medical and Hospital Care Act (PEMHCA), which is administered by the Board of Administration of the Public Employees' Retirement System (PERS), authorizes the board to contract with carriers offering health benefit plans. Existing law also authorizes the board to contract for, or approve, health benefit plans that charge a contracting agency and its employees and annuitants rates based on regional variations in the costs of health care services and to contract for, or approve, health benefit plans exclusively for the employees and annuitants of contracting agencies, as specified.

This bill would authorize the board to implement and administer risk adjustment procedures that require health benefit plans to adjust premiums and would authorize PERS to redistribute premiums based on rules and regulations established by the board.

PEMHCA requires premiums charged for enrollment in a health benefit plan to reasonably reflect the cost of the benefits provided. Existing law permits the board to enter into contracts with carriers based on carrier performance, and to credit premiums to an employer for expenditures that are likely to improve the health status of employees and annuitants. Contributions and premiums paid under PEMHCA are deposited in the Public Employees' Health Care Fund and the Public Employees' Contingency Reserve Fund, both of which are continuously appropriated special funds.

This bill would specify that the board has the authority to adjust premiums as part of programs for health promotion and disease prevention and develop procedures for risk adjustment of premiums across plans that encourage plans to offer benefits based upon medical and administrative efficiency and quality of care rather than on the employee's or annuitant's health status or service areas with low-risk populations. The bill would also specify that the Public Employees' Health Care Fund would include any moneys from health benefit plans for that risk adjustment. The bill would also authorize the board to use reserves generated by one or more self-funded health benefit plans for risk adjustment programs and procedures. By authorizing moneys

in those funds to be used for a new purpose, the bill would make an appropriation.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 22850 of the Government Code is amended to read:

22850. (a) The board may, without compliance with any provision of law relating to competitive bidding, enter into contracts with carriers offering health benefit plans or with entities offering services relating to the administration of health benefit plans.

(b) The board may contract with carriers for health benefit plans or approve health benefit plans offered by employee organizations, provided that the carriers have operated successfully in the hospital and medical care fields prior to the contracting for or approval thereof. The plans may include hospital benefits, surgical benefits, inpatient medical benefits, outpatient benefits, obstetrical benefits, and benefits offered by a bona fide church, sect, denomination, or organization whose principles include healing entirely by prayer or spiritual means.

(c) Notwithstanding any other provision of this part, the board may contract with health benefit plans offering unique or specialized health services.

(d) The board may administer self-funded or minimum premium health benefit plans.

(e) The board may contract for or implement employee cost containment and cost reduction incentive programs that involve the employee, the annuitant, and family members as active participants, along with the carrier and the provider, in a joint effort toward containing and reducing the cost of providing medical and hospital health care services to public employees. In developing these plans, the board, in cooperation with the Department of Human Resources, may request proposals from carriers and certified public employee representatives.

(f) Notwithstanding any other provision of this part, the board may do any of the following:

(1) Contract for, or approve, health benefit plans that charge a contracting agency and its employees and annuitants rates based on regional variations in the costs of health care services.

(2) Contract for, or approve, health benefit plans exclusively for the employees and annuitants of contracting agencies. State employees and annuitants may not enroll in these plans. The board may offer health benefit plans exclusively for employees and annuitants of contracting agencies in addition to or in lieu of other health benefit plans offered under this part. The governing body of a contracting agency may elect, upon filing a resolution with the board, to provide those health benefit plans to its employees and annuitants. The resolution shall be subject to mutual

agreement between the contracting agency and the recognized employee organization, if any.

(3) Implement and administer risk adjustment procedures consistent with Section 22864 that require health benefit plans to adjust premiums and authorize the system to redistribute premiums based on rules and regulations established by the board for this purpose.

(g) The board shall approve any employee association health benefit plan that was approved by the board in the 1987–88 contract year or prior, provided the plan continues to meet the minimum standards prescribed by the board. The trustees of an employee association health benefit plan are responsible for providing health benefit plan administration and services to its enrollees. Notwithstanding any other provision of this part, the California Correctional Peace Officer Association Health Benefits Trust may offer different health benefit plan designs with varying premiums in different areas of the state.

(h) Irrespective of any other provision of law, the sponsors of a health benefit plan approved under this section may reinsure the operation of the plan with an admitted insurer authorized to write disability insurance, if the premium includes the entire prepayment fee.

SEC. 2. Section 22864 of the Government Code is amended to read:

22864. (a) Premiums charged for enrollment in a health benefit plan shall reasonably reflect the cost of the benefits provided.

(b) This part does not limit the board's authority to do any of the following:

(1) Enter into contracts with carriers providing compensation based on carrier performance.

(2) Credit premiums to an employer for expenditures that the board determines are likely to improve the health status of employees and annuitants or otherwise reduce health care costs.

(3) Adjust the premiums charged under any health benefit plan or contract to reflect regional variations in the cost of health care services and other relevant factors. Any adjustment of these premiums shall be at the sole discretion of the board and shall only apply to the premiums charged to employees and annuitants of contracting agencies. The board may require a contracting agency and its employees and annuitants to pay the premium rate established pursuant to this paragraph, which may be different than the health benefit plan or contract premium rate that would otherwise be applicable to that agency.

(4) Adjust premiums as part of programs for health promotion and disease prevention.

(5) Develop procedures for risk adjustment of premiums across plans that encourage plans to offer benefits based upon medical and administrative efficiency and quality of care rather than on the employee's or annuitant's health status or service areas with low-risk populations. Any risk adjustment program or procedure shall be at the sole discretion of the board.

SEC. 3. Section 22911 of the Government Code is amended to read:

22911. (a) There shall be maintained in the State Treasury the Public Employees' Health Care Fund to fund the health benefit plans administered or approved by the board. The board may invest funds in the Public Employees' Health Care Fund in accordance with the provisions of law governing its investment of the retirement fund.

(b) The Public Employees' Health Care Fund shall consist of the following:

(1) Any self-funded or minimum premium plan premiums paid by contracting agencies, the state and enrolled employees, annuitants, and family members, including premiums paid directly for continuation coverage authorized under the Consolidated Omnibus Budget Reconciliation Act, and as authorized by this part.

(2) Any reserve moneys from terminated health benefit plans designated by the board.

(3) Any moneys from a health benefit plan for risk adjustment pursuant to Section 22864.

(c) Income earned on the Public Employees' Health Care Fund shall be credited to the fund.

(d) Notwithstanding Section 13340, the Public Employees' Health Care Fund is continuously appropriated, without regard to fiscal years, to pay benefits and claims costs, the costs of administering self-funded or minimum premium health benefit plans, refunds to those who made direct premium payments, and other costs as the board may determine necessary, consistent with its fiduciary duty.

(e) The Legislature finds and declares that the Public Employees' Health Care Fund is a trust fund held for the exclusive benefit of enrolled employees, annuitants, family members, the self-funded plan administrator, and those contracting to provide medical and hospital care services.

(f) Notwithstanding subdivisions (d) and (e), the board may use reserves generated by one or more self-funded health benefit plans for risk adjustment programs and procedures pursuant to paragraph (3) of subdivision (f) of Section 22850 and paragraph (5) of subdivision (b) of Section 22864.